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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,734	12/08/2003	Cory A. Siverson	SI02-P01	3966
27451	7590	04/02/2004	EXAMINER	
REIDLAW, L.L.C. 1926 SOUTH VALLEYVIEW LANE SPOKANE, WA 99212-0157			ACKUN, JACOB K	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/730,734	SIVERSON, CORY A.	
<b>Period for Reply</b>	Examiner	Art Unit	
	Jacob K. Ackun Jr.	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_\_.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 11 is/are allowed.

6) Claim(s) 1,5,6,8-10 and 12-21 is/are rejected.

7) Claim(s) 2-4 and 7 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

<p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.</p>	<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____.</p>
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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-10, 12-16 and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The method claims in the group above all depend from a claim to a product. They are indefinite because it is not clear how the recited method steps are intended to further structurally limit the product recited in claim 1.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 6, 8-10, 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moorman et al.(cited by the applicant) alone, or in view of Wimmer. The rejected method claims are treated as best understood, ie, they do not appear to add any structure not disclosed by Moorman to the product from which they depend. Moorman discloses a flying disc having most of the claimed structural elements. However Moorman may not specifically teach the material recited on the last line of claim 1 and may not specifically teach the central web axial thickness recited in claim 17. On the other hand since Moorman expressly teaches construction from natural or synthetic rubber and a flexible and a relatively thin central portion 12, it would have been obvious to construct the device of Moorman from the recited materials and to have the recited thickness its central web portion, for the purpose of providing a more economical and durable device that still functions as intended.

However, Wimmer is cited to show specific knowledge in the art of constructing toys of the general type under consideration herein from silicone. Accordingly, it would also have been obvious in view of Wimmer to construct the device of Moorman from the claimed materials, in order to provide a durable air foil. Method claim 21 is considered to be an obvious method for constructing the device of Moorman or Moorman modified in view of Wimmer as noted above.

5. The examiner considers claims 2, 3, 4 and 7 to avoid the prior art of record, but is objecting to these claims on the grounds that they depend from rejected claims. These claims will be allowed if rewritten or amended into independent form to include all of the limitations of the base claim and any intervening claims.

6. Claim 11 is allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob K. Ackun Jr. whose telephone number is (703)308-3867. The examiner can normally be reached on Monday through Friday 8.30AM-5.00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703)308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jacob K. Ackun Jr.  
Primary Examiner  
Art Unit 3712

J.A.